

HOUSE FINANCE COMMITTEE

April 22, 2021

1:37 p.m.

1:37:18 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:37 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Kelly Merrick, Co-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Bryce Edgmon
Representative DeLena Johnson
Representative Andy Josephson
Representative Sara Rasmussen
Representative Adam Wool
Representative Bart LeBon
Representative Steve Thompson

MEMBERS ABSENT

ALSO PRESENT

PRESENT VIA TELECONFERENCE

Lucinda Mahoney, Commissioner, Department of Revenue; Pam Leary, Director, Treasury Division, Department of Revenue; Douglas Vincent-Lang, Commissioner, Department of Fish and Game.

SUMMARY

HB 79 SALTWATER SPORTFISHING OPERATORS/GUIDES
HB 80 SPT FSH HATCHERY FACIL ACCT; SURCHARGE
HB 92 ANTICIPATION OF REVENUE; BORROWING; CREDIT

Co-Chair Merrick reviewed the agenda for the afternoon.
#hb92

HOUSE BILL NO. 92

"An Act relating to borrowing in anticipation of revenues; relating to revenue anticipation notes; relating to line of credit agreements; and providing for an effective date."

1:37:59 PM

Co-Chair Merrick indicated that the committee last heard the bill on April 16, 2021.

LUCINDA MAHONEY, COMMISSIONER, DEPARTMENT OF REVENUE (via teleconference), asked committee members and the public to seriously consider the bill.

1:38:36 PM

Co-Chair Merrick OPENED public testimony.

1:38:49 PM

Co-Chair Merrick CLOSED public testimony.

Co-Chair Merrick invited Ms. Pam Leary to review the fiscal note with OMB component number 121.

1:39:35 PM

AT EASE

1:41:32 PM

RECONVENED

Co-Chair Merrick turned to the fiscal note review.

1:41:43 PM

PAM LEARY, DIRECTOR, TREASURY DIVISION, DEPARTMENT OF REVENUE (via teleconference), reviewed the new indeterminate fiscal note for the Department of Revenue (DOR) appropriated to Taxation and Treasury. She explained that the proposed legislation updated AS 43.08 to clarify that borrowing in anticipation of revenue collections included employing other forms of short-term borrowing strategies such as line of credit agreements in addition to revenue anticipation notes. Fees paid would be offset by allowing state funds to continue to be invested, earning

returns, rather than being borrowed to cover cash flow needs. The new fiscal note was indeterminant. She furthered that it was currently unknown how much interest the borrowing mechanisms would carry and the associated costs, but the division anticipated an offset to the costs.

Representative Thompson deduced that the state would be paying a fee to access a line of credit. Ms. Leary replied that he was correct. Representative Thompson asked what the fees would be. Ms. Leary responded that the information was provided in the PowerPoint (copy on file) provided on April 16, 2021. The fees ranged from .08 percent to .055 percent based on a 12 month estimate on a hypothetical amount of \$100 million. There would be some associated costs with the line of credit no matter what vehicle chosen or terms of the loan.

[1:44:22 PM](#)

Representative LeBon referenced the two loan options: capitol market products and bank market funded products. He asked whether one product group would be easier to obtain in terms of the mechanics of placing the line of credit versus the other. He thought securing a revolving line of credit would be the quickest and easiest way to secure the line of credit.

[1:45:08 PM](#)

Mr. Leary stated that Representative LeBon was correct. She indicated that there was a structure that could be accessed with a bank versus a syndicate that would take time to develop. Representative LeBon thought that the banking option would be cheaper, quicker, and easier to establish. He commented that a revolving line of credit was able to renew annually. Ms. Leary replied that it was not clear yet whether the state would choose a line of credit or a different financing mechanism. However, from a general cash flow perspective the department would choose a line of credit with some sort of annual renewal.

Co-Chair Merrick indicated that amendments were due by 6:00pm.

#hb79

HOUSE BILL NO. 79

"An Act relating to salt water sport fishing operators and salt water sport fishing guides; and providing for an effective date."

1:47:03 PM

Co-Chair Merrick indicated that Amendment 1 was adopted during the prior hearing on April 20, 2021.

Representative Wool MOVED to ADOPT Amendment 2 (copy on file):

Page 1, line 5:
Delete "a new paragraph"
Insert "new paragraphs"

Page 1, line 6:
Delete "Fishing"
Insert "Resident fishing"

Page 1, line 7:
Delete "Sport"
Insert "Resident sport"

Page 1, line 8:
Delete "Sport"
Insert "Resident sport"

Page 1, line 9:
Delete "Sport"
Insert "Resident sport"

Page 1, following line 9:
Insert a new paragraph to read:

(29)	Nonresident	fishing	services
	licenses		
(A)	Nonresident	sport	fishing
	operator license	400
(B)	Nonresident	sport	fishing
	guide license	200
(C)	Nonresident	sport	fishing
	operator and	guide	combined
	license	400."

Page 3, line 26, following "(C)":
Insert "or 16.05.340(a)(29)(B) or (C)"

Page 4, line 2, following "(C)":
Insert "or 16.05.340(a)(29)(A) or (C)"

Page 4, line 3, following "(C)":
Insert "or 16.05.340(a)(29)(A) or (C)"

Representative Rasmussen OBJECTED for discussion.

Representative Wool explained the amendment. He offered that the amendment doubled the fee for an out of state guide, guide operator, or operator for fishing. He delineated that the amendment paralleled AS 08.01.065 relating to big game hunting that allowed for the state to charge out of state big game guides double the amount of an Alaska resident. He had consulted with Legislative Legal Services regarding a constitutional challenge and shared that it determined that the provision could be challenged but so far, the big game fees had not been challenged in court.

[1:48:40 PM](#)

Representative Rasmussen relayed her objection.

Representative Rasmussen MOVED to ADOPT Conceptual Amendment 1 to Amendment 2 (copy on file):

Page 2, line 6, following "AS 16.05.340(a)":
Insert "and the nonresident surcharge, if applicable, under AS 16.40.274"

Page 3, line 7, following "AS 16.05.340(a)":
Insert "and the nonresident surcharge, if applicable, under AS 16.40.274"

Page 3, line 13, following "AS 16.05.340(a)":
Insert "and the nonresident surcharge, if applicable, under AS 16.40.274"

Page 4, following line 11:
Insert a new section to read:

"Sec. 16.40.274. Nonresident surcharge. In addition to the annual base fee required for a sport fishing guide license, sport fishing operator license, or sport fishing operator

and guide combined license under AS 16.05.340(a)(28), a nonresident shall pay an annual nonresident surcharge for the issuance or renewal of a license under AS 16.40.262 or 16.40.272. The department shall establish the annual nonresident surcharge by regulation at an amount that is as close as is practicable to the maximum allowed by law."

Representative Rasmussen explained the amendment. She voiced that during the previous hearing some concerns were raised regarding the legality of the amendment and the definition of resident and non-resident. She shared that she had consulted the Legislative Legal Services and the Department of Law (DOL). She was offering her amendment to clear up some of the issues that were raised.

Co-Chair Merrick OBJECTED for discussion.

Representative Rasmussen furthered that the new language replaced Amendment 2 and allowed for the department to implement a non-resident surcharge as necessary for sport fishing licenses. She noted that legislative legal and DOL did not find any constitutional issue with Conceptual Amendment 1. The language was similar to the language in AS 16.43.160 regarding commercial fishing license fees. She reiterated that the amendment allowed for a non-resident surcharge by regulation and used existing Department of Fish and Game (DFG) language for the residency requirement and definition.

Representative Wool appreciated the conceptual amendment. He was unclear whether the conceptual amendment amended the amendment or the bill. He deemed that Conceptual Amendment 1 was amending the bill and not the amendment.

Representative Rasmussen asked for an at ease.

1:50:43 PM

AT EASE

1:52:32 PM

RECONVENED

Representative Rasmussen explained that the conceptual amendment was lacking a first line that deleted the material from Amendment 2 and inserted the amended version.

Representative Wool did not care which amendment was used. He was only concerned that the fees were doubled for non-residents, which was the maximum allowed by statute. He read the following from the conceptual amendment:

"The department shall establish the annual nonresident surcharge by regulation at an amount that is as close as is practicable to the maximum allowed by law."

Representative Wool wondered if use of the word "shall" made it something the department could do in regulation.

1:54:09 PM

DOUGLAS VINCENT-LANG, COMMISSIONER, DEPARTMENT OF FISH AND GAME (via teleconference), read the language from a portion of the conceptual amendment to Amendment 2 as follows:

In addition to the annual base fee required for a sport fishing guide license, sport fishing operator license, or sport fishing operator and guide combined license under AS 16.05.340(a)(28), a nonresident shall pay an annual nonresident surcharge for the issuance or renewal of a license under AS 16.40.262 or 16.40.272. The department shall establish the annual nonresident surcharge by regulation at an amount that is as close as is practicable to the maximum allowed by law."

Commissioner Vincent-Lang surmised that the surcharge could be set by regulation.

Representative Wool related that he was not party to the drafting of the conceptual amendment. He wondered if it was something that the department could accomplish easily and quickly. Commissioner Vincent-Lang indicated that the change would go through the Administrative Procedures Act process, and anyone could comment on the proposed regulatory change.

Representative Wool asked if the issue was debatable with the word "shall." Commissioner Vincent-Lang understood that he shall do it, but the change had to go through the

established regulatory process. He indicated that the outcome of the regulatory process was dependent on the public comments. He ascertained that his mandate would be to establish a regulation "as close as is practicable to the maximum allowed by law." He would need to define the maximum allowed by law and be as close of possible to the amount.

Representative Wool asked if someone from Legislative Legal Services was online.

1:57:09 PM

Alpheus Bullard, Legislative Counsel, Legislative Legal Services introduced himself and asked Representative Wool to repeat the question.

Representative Wool reiterated that the conceptual amendment changed the bill rather than his amendment. He commented that the conceptual amendment provision was regulatory and not statutory. He reread the last portion of the amendment and understood that the maximum was twice the amount of a resident's fee. He was not sure that the commission could guarantee the outcome due to the regulatory process. He asked whether establishing the increased fees was in question if the proposal went through the regulatory process. Mr. Bullard indicated that the amendment put the onus on the department to determine what extra burden non-resident sport fishing guides and sport fishing operators could contribute. He voiced that the determination was the legal amount established by the Alaska Supreme Court. Representative Wool wanted to double the fees. He referred to AS 08.01.065 that doubled the fee for non-resident big game guide licenses. His amendment was paralleling the statute. He was aware that his amendment could be challenged and doubted anyone would initiate a lawsuit to save \$100 or \$200 dollars. He was willing to accept the risk and go with his amendment rather than the conceptual amendment. He felt that the amount determined through the regulatory process would be negligible. He voiced that the big game statutes simply implemented the increase through statute. He discerned that the number of guides was small, and he would rather stick to his amendment seeing that a statute existed for big game guides.

Co-Chair Merrick reported that the committee had been joined by Representative Edgmon. She asked Mr. Bullard for comment.

Mr. Bullard responded that in terms of the legal analysis it was irrelevant what else existed in statute, it was the appraisal of what the court would do if the statute was challenged that mattered. The language that was used in the conceptual amendment was the same as the language used for non-resident commercial fishing guides. The language was the result of previous legal challenges. He concluded that the language in the conceptual amendment had a greater chance of being upheld in court rather than a statute that simply stated the fee was doubled.

Commissioner Vincent-Lang was concerned with the language stating the department shall establish the non-resident surcharged annually. He thought it would require an annual review process.

Mr. Bullard responded that the fee would be an annual surcharge. He thought that if the department believed that nothing had changed regarding the cost posed by non-residents there was no reason the department would have to change it. He could not speak to the burden the process placed on the department.

Representative Rasmussen thought that the burden placed on the department was being exaggerated. She believed that it was relatively simple for the department to establish the fee and mirror the process for the commercial fishing license fees. She was not comfortable supporting an amendment that might draw a lawsuit.

[2:04:39 PM](#)

Representative Josephson deduced that when the department established the surcharge as required in AS 16.43. 160, the test the commissioner would apply would be the Carlson test from a prior case. He wondered if he was correct. Mr. Bullard responded affirmatively. Representative Josephson surmised that DFG needed funding to administer the logbook program that was obligated under treaties. He asked if the bill, as amended, provided the amount of funding necessary to carry out the logbook program. Commissioner Vincent-Lang replied that it did not entirely. However, the department had secured federal grants from the Halibut Commission to

make up the difference. He was uncertain whether the funding was sufficient if freshwater fishing was added to the program. He was not familiar with how the Commercial Fisheries Entry Commission (CFEC) set its fees for non-residents.

2:07:15 PM

Representative Wool asked about the case challenge that Representative Josephson was referring to. He wondered if the case had to do with non-resident fees for licenses. Mr. Bullard responded that there were three cases regarding non-resident fees for commercial fishing entry permits and interim use entry permits. Representative Wool understood that there were different fees non-resident commercial fishers established under the CFEC. He deduced that it was somehow determined that it cost more to administer licenses to non-residents. He found himself in a quandary, he did not want to jeopardize the bill, but the big game guide statute had not been challenged. He believed that ultimately, every law was subject to potential lawsuits.

2:09:01 PM

Representative Carpenter asked how many out of state guides were licensed in 2019 or 2021. He deemed that the information would help determine the amount of potential revenue raised by increased fees. Commissioner Vincent-Lang reported that in 2020 the number of resident licenses by businesses was 90, the combination was 904, and the guides amounted to 922. He specified that for the same year for non-residents there were 29 businesses, 133 combinations and 726 guides. The average over 5 years was 103 resident businesses, 950 combination and guides were 1,153. In terms of non-resident licenses, there were 33 businesses, 150 combinations, and 976 guides.

2:10:58 PM

AT EASE

2:14:45 PM

RECONVENED

Representative Carpenter referred to a document provided by Commissioner Vincent-Lang [copy of an email to the commissioner (copy on file)] and pointed to the chart titled "Non-Resident Licenses/Registrations Issued by Type

and Year, 2016 - 2020" and noted the total revenue amount of \$268,240 thousand. He calculated that the increase would be 50 percent because it reflected the \$400 fee contained in the bill.

Representative Rasmussen WITHDREW Conceptual Amendment 1 to Amendment 2.

[2:15:44 PM](#)

Representative Edgmon determined that the committee could not determine what the legal risk could be, even if more legal entities were consulted. He thought that Alaska would not be the only state that has a resident versus non-resident differential. He voiced that he was willing to take the risk of adopting Amendment 2. He asked whether the commissioner could comment on other states having a resident versus non-resident licensing structure. Commissioner Vincent-Lang responded that other states had differential rates. He guessed that if the law was challenged that the non-resident portion would be repealed. Representative Edgmon recalled that the Carlson case required the state to reimburse the licensees.

[2:17:57 PM](#)

Representative Wool cited the document distributed by the commissioner and asked whether the charts were accurate or if it was a projection of what it would be under the legislation. Commissioner Vincent-Lang responded that it reflected what the amount would be under the legislation at a 2 to 1 ratio. Representative Wool deduced that the difference was \$60 thousand and as high as calculated in the prior discussion. He indicated that the Carlson Case denied a three times higher non-resident surcharge, not a twice higher surcharge. He wanted to offer his amendment since it asked for a doubling of the resident fee.

Co-Chair Merrick WITHDREW her OBJECTION.

Representative Rasmussen thought that her amendment was more appropriate, and the committee should consider the legality of the statute and avoid any risk of a lawsuit.

Representative Wool appreciated the comments made by Representative Rasmussen. He worried that it was unknown how the department would justify the surcharge and that it

could be less than 50 percent. He believed that it was "simpler" to double the fee and that there was precedent for his proposal.

Representative LeBon asked the commissioner whether he had stated that there were sufficient revenues to administer the program without a fee increase. Commissioner Vincent-Lang answered that he stated there would be insufficient revenue without any surcharge and if the differential was eliminated, he would need to make up the difference with federal funding sources.

2:21:58 PM

Representative LeBon surmised that the commissioner had federal funding to fall back on and guessed that the need for the additional revenue included in the amendments was not "compelling." Commissioner Vincent-Lang agreed only if it applied to the saltwater program. The authority to add a surcharge for a freshwater logbook program was contained in the bill. Representative LeBon wanted guidance from the commissioner and asked if the commissioner wanted the amendment. Commissioner Vincent-Lang responded that it was entirely the legislature's decision. He refused to provide a definitive answer.

Representative Wool commented that he was surprised to learn that there were almost equal numbers of resident and non-resident guides. In addition, the amendment would authorize a surcharge for a freshwater logbook program, therefore both reasons compelled him to offer his amendment.

Representative Edgmon asked about the impacts of non-resident participation with the passage of the amendment. Commissioner Vincent-Lang replied that when the licensing fees were raised for sportfishermen, licenses declined by 5 to 10 percent. He thought that the impact to the guide license would be negligible, since it was a profession, and the licenses were paid for by their service fees.

Representative Carpenter asked how close Amendment 1 came to fully funding the logbook program for non-residents. Commissioner Vincent-Lang replied that it got the department much closer; almost fully funded. Representative Rasmussen WITHDREW her OBJECTION.

There being NO OBJECTION, it was so ordered. Amendment 2 was adopted.

Representative Rasmussen WITHDREW Amendment 3.

[2:26:28 PM](#)

Co-Chair Foster MOVED to report CSHB 79 (FIN) out of Committee with individual recommendations and the accompanying fiscal note.

Representative Johnson OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Foster, Merrick, Ortiz, Carpenter, Edgmon, Josephson, Rasmussen, Wool, LeBon, Thompson

OPPOSED: Johnson

The MOTION PASSED (10/1).

CSHB 79 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note by the Department of Fish and Game.

[2:29:54 PM](#)

AT EASE

[2:33:40 PM](#)

RECONVENED

#hb80

HOUSE BILL NO. 80

"An Act establishing the sport fishing hatchery facilities account; establishing the sport fishing facility surcharge; and providing for an effective date."

Co-Chair Merrick called the meeting back to order. The committee would take up HB 80. There were 3 amendments for the bill.

[2:33:49 PM](#)

Vice-Chair Ortiz WITHDREW Amendment 1 (copy on file).

Representative Carpenter WITHDREW Amendment 2 (copy on file).

2:34:28 PM

Vice-Chair Ortiz MOVED to ADOPT Amendment 3 (copy on file):

Page 1, line 8:

Delete "shall allocate"

Insert "may use"

Delete the first occurrence of "to"

Insert "only for"

Page 1, line 10:

Delete "to fisheries management,"

Insert "for sport fisheries management, sport"

Page 1, lines 12 - 14:

Delete all material and insert:

"(2) of the remainder of each surcharge collected, (A) 30 percent to be deposited into a subaccount within the sport fishing enhancement account to be known as the Southeast sport fishing enhancement subaccount; money in the subaccount may be used only in the Southeast region of the state for sport fishing stock enhancement projects and the maintenance and operation of hatchery facilities; and (B) 70 percent for use in other regions of the state for sport fishing stock enhancement projects and the maintenance and operation of state hatchery facilities."

Co-Chair Merrick OBJECTED for discussion.

Vice-Chair Ortiz reviewed the amendment. He indicated that the amendment was a "good faith effort" to try to address the concerns raised by committee members and the commissioner. The amendment changed language in Section 1, line 8 of the bill from "shall allocate" with "may use." The change was requested by the department and provided DFG more flexibility with account funds. He added that the next part of the amendment specified that funds generated by sport fish license sales would benefit sport fishery management and research. He elaborated that the final part

of the amendment created a subaccount within the sport fish enhancement account that set aside 30 percent of the surcharge after the \$2.50 was taken for invasive species management research and habitat restoration and would be deposited for use in the Southeast Region. The remaining amount would be available for other regions of the state. The provisions alleviated the concern DFG had regarding being prohibited from using the funding elsewhere. The legislature maintained the authority to change the distribution of the surcharge in the future.

[2:36:13 PM](#)

Representative Wool asked if the charge was the additional \$4.00 surcharge. He wondered if the allocation would inhibit DFG's traditional spending pattern of moving money to different regions as needed.

[2:37:21 PM](#)

Vice-Chair Ortiz replied that the intent of the amendment changing the language was to afford more flexibility for the department. He deferred to the commissioner for further answer.

Representative Wool asked if that was the reason for the choice of the word "may." Commissioner Vincent-Lang responded in the affirmative. He pointed to the following amendment language "and the maintenance and operation of hatchery facilities;" and "state hatchery facilities" and informed the committee that DFG could only spend money for hatcheries that supported sport fisheries.

[2:38:52 PM](#)

Representative LeBon referred to the bottom of the amendment where it referenced 30 percent deposited into the subaccount and concluded that it was targeted for the Southeast region and 70 percent was for other regions. He wondered if Fairbanks and Anchorage were the other regions. Commissioner Vincent-Lang responded in the affirmative. Representative LeBon inquired whether it was up to the commissioner to decide how the 70 percent was divided among hatcheries and it left 30 percent dedicated to Southeast, which was not subject to change. Commissioner Vincent-Lang interpreted the amendment to mean that 30 percent from the subaccount would be spent on Southeast Alaska. He

communicated that currently, DFG spent roughly \$860 thousand in Southeast Alaska between the existing surcharge and Pittman-Robertson (PR) and Dingell-Johnson (DJ) funds. The department would pay with the surcharge and would be able to build up enough over time to have funding to pay for the maintenance of the hatcheries that were producing the fish. Representative LeBon asked if the amendment should be 35 percent to the Anchorage Hatchery and 35 percent to the Fairbanks. Commissioner Vincent-Lang responded that he would like the language to remain as it was written reflecting 70 percent for Anchorage and Fairbanks. He noted that there were different maintenance and operational costs. He indicated that the 30 percent number was derived from the percentage of licenses purchased by Southeast residents from the total number of sport fishing licenses sold. He reported that the license holders in Southeast were not getting a direct benefit from the two hatcheries as those in Anchorage and Fairbanks. Representative LeBon thought the amendment was to protect the interests of Southeast. He clarified that the commissioner would allocate the remaining amount comingled from one pot between Anchorage and Fairbanks. Commissioner Vincent-Lang replied in the affirmative.

Vice-Chair Ortiz spoke to the intent of the amendment. He recounted that the original fees that were charged for the licenses were set to repay bonds for construction of the two facilities in Anchorage and one in Fairbanks. He elucidated that the historical spending of the fees went mostly to the Fairbanks region. Since the bonds were repaid, the reasoning was to direct close to one third of the revenue to the region where one third of the license sales originated.

[2:43:40 PM](#)

Representative LeBon asked about the commissioner's confidence level regarding the split. He wondered whether the 30 percent was locked into the Southeast Region. Commissioner Vincent-Lang replied that he interpreted the provision to allow the funding in the subaccount to be used in other areas if it was not needed in Southeast. He emphasized the use of the word "may." Commissioner Vincent-Lang ascertained that currently DFG was spending about \$800 thousand a year and 30 percent was \$1.4 million per year. The remaining \$400 thousand in the subaccount each year could grow and be directed towards the \$2.5 million

deferred maintenance need at Crystal Lake. The subaccount would be used to pay for maintenance of the infrastructure used to produce the fish. He believed that the percentage was the right amount and would address longer term deferred maintenance needs.

[2:45:52 PM](#)

Representative LeBon voiced his concerns over the breakdown in the amendment. He noted the Fairbanks hatchery was in his district and the sport fishing interest of the Interior was supported by the hatchery. He wondered how he could protect the sport fishing interest of Interior Alaska also without dedicating a certain amount to the Fairbanks hatchery. Commissioner Vincent-Lang responded that Representative LeBon needed to rely on the commissioner's assurances that DFG would maintain the hatchery and the infrastructure. He added that the Fairbanks hatchery was the most complicated in maintaining water quality and he was aware of the short and long term maintenance needs of the facility. Representative LeBon felt that there was a little bit of "Apples-to-Oranges." He reiterated that there was no dedication of funds to the two remaining regions.

[2:47:54 PM](#)

Representative Johnson was attempting to envision how the split would work. She wondered whether the split would result in excess money in one fund that would be unable to be used for another region. Commissioner Vincent-Lang answered that the difference had to do with how fish was produced in Southeast Alaska versus the rest of the state. He explained that in the rest of the state two hatcheries were built and run by the department. In Southeast Alaska, the state did not build hatcheries. The hatcheries were run by private non-profit partners and received state funding to operate. He opined that the approach seemed to fit the Southeast region better. As a result of establishing a surcharge to build the two hatcheries in Anchorage and Fairbanks it left an understandable desire by Southeast legislators that their regions sport fishers were paying for something they were not getting a direct benefit. Therefore, the department apportioned part of the surcharge to use in Southeast Alaska. He pointed out that the methods used to benefit sport fishers were different and in Southeast Alaska it was accomplished via contract. The surcharge split was one way to ensure that each year all

the surcharge funding was not allocated to Anchorage and Fairbanks leaving insufficient funding to maintain the contractual obligation to produce fish in Southeast.

[2:50:33 PM](#)

Representative Carpenter asked how many hatcheries would be supported with the 30 percent portion. Commissioner Vincent-Lang responded that the funding was distributed on a case by case basis as to how the fish was produced at the private non-profit hatcheries. The department let the hatcheries decide where the facilities should be to produce the fish. The state paid the hatcheries to keep the production ongoing. Representative Carpenter understood the concept of fairly distributing the money. He thought there was other risks that should be considered. He wanted to know about the legality of splitting the money and the constitutionality of subaccounts in terms of dedicated funds.

[2:52:14 PM](#)

AT EASE

[2:55:39 PM](#)

RECONVENED

Co-Chair Merrick indicated Mr. Bullard was online.

Representative Carpenter had concerns and questions regarding the 30/70 allocation split, the creation of a subaccount and the legality of designated funds.

Mr. Bullard responded that the amendment would create a dedicated subaccount within a dedicated account within a dedicated fund called the Fish and Game Fund. He explained that the fund was a constitutionally dedicated fund because it was required for participation in federal programs. The federal government did not require the state to further dedicate the revenue within the Fish and Game fund for particular purposes. He stated that both the account and the subaccount were unconstitutional, but the fund was constitutional. Representative Carpenter asked for clarity. Mr. Bullard reiterated that the original account and the subaccount within the fund were unconstitutional.

Representative Josephson asked whether Mr. Bullard was stating that he drafted an unconstitutional amendment for

Representative Ortiz. Mr. Bullard restated that it was his legal opinion that if the federal government did not require that the Fish and Game Fund have dedicated funds for purposes other than what the fund was designed for then the accounts were unconstitutional. Representative Josephson was aware that the fund was a dedicated fund because it predated statehood. Mr. Bullard responded that it was permissible because its existence was required by the federal government. Representative Josephson stated that the subaccount did not mean the money could not be distributed for different use by a future legislature. He believed that the state was compliant with the dedicated provision if the resources were used for fisheries. He asked whether he was correct.

Commissioner Vincent-Lang interjected that when the DJ and PR funds were made available there was a requirement that license fees had to be used to match the funds. The Fish and Game Fund was a dedicated fund voted on by the people of Alaska and was an amendment to the constitution. The money in the fund was dedicated to DFG and could not be used for other purposes.

[3:01:37 PM](#)

Representative Josephson recommended that the bill be held to revisit Mr. Bullard's opinion. He needed more clarity regarding his statements.

Vice-Chair Ortiz explained that rather than hold up the bill any longer he would withdraw the amendment and address the issue in the other body.

Vice-Chair Ortiz WITHDREW Amendment 3.

[3:02:34 PM](#)

Co-Chair Merrick WITHDREW her OBJECTION.

Co-Chair Foster MOVED to report CSHB 80 (FSH) out of Committee with individual recommendations and the accompanying fiscal note.
There being NO OBJECTION, it was so ordered.

CSHB 80 (FSH) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note by the Department of Fish and Game.

3:04:32 PM

AT EASE

3:07:22 PM

RECONVENED

Co-Chair Merrick reviewed the agenda for the following meeting.

#

ADJOURNMENT

3:07:49 PM

The meeting was adjourned at 3:07 p.m.